

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, *et al.*,

Defendants.

No. 5:23-cv-34-H

**TEXAS’S UNOPPOSED MOTION FOR LEAVE TO FILE AN AMENDED
WITNESS LIST AND MOTION TO VACATE DISCOVERY DEADLINES**

On November 16, 2023, Defendants sought to (i) vacate the trial date and re-set a hearing on the pending motions without live testimony; (ii) strike Plaintiff’s four witnesses; or (iii) continue the trial for at least three weeks and allow Defendants to take depositions and other discovery. See Dkt. No. 83 at 1. On November 20, 2023, this Court granted the motion in part. Dkt. No. 91. Specifically, the Court continued the final pre-trial conference to January 17, 2023; continued the trial date to January 22, 2023; instructed Texas to make its four witnesses available for deposition by December 22, 2023; and in light of these deadlines, reset the deadlines regarding any motion to exclude filed by Defendants and any response to such motion filed by Texas. Dkt. No. 91 at 3. Notably, however, this Court made clear that “[a]ll other deadlines from this Court’s prior scheduling order (Dkt. No. 75) remain unchanged.” Dkt. No. 91 at 3. And pursuant to that prior scheduling order, “[n]o amendments shall be made” to Texas’s witness list “without good cause or unless the parties agree.” Dkt. No. 75 at 2.

Here, in light of this Court’s recent orders, the parties have conferred and agreed that neither party will call live witnesses at the January 22, 2024, trial, regardless of this Court’s rulings regarding any pending or future motions to exclude evidence or witnesses (including Dkt. Nos. 77 and 93) or objections to the admissibility of declarations or other evidence (including Dkt. Nos. 78 and 92). The parties further agreed that any discovery-related deadlines are thereby unnecessary and should be vacated. These discovery-related deadlines specifically include the December 22,

2023, deadline for Texas to make its four witnesses available for depositions; the December 29, 2023, deadline for Defendants to file any motion to exclude Texas's witnesses; and the January 10, 2024, deadline for Texas to file any response to Defendants' motion to exclude.

Therefore, based on the parties' agreement and pursuant this Court's prior scheduling orders, *see* Dkt. No. 75 at 2; Dkt. No. 91 at 3, Texas respectfully requests leave to file an amended witness list that notifies this Court of its intention to not call any live witnesses for trial. Texas further requests that this Court vacate any discovery-related deadline in light of the parties' agreement and order that all other deadlines remain unchanged.

CONCLUSION

Texas respectfully requests this Court to grant leave to file an Amended Witness List, attached to this Motion as an exhibit, and to vacate all discovery-related deadlines.

Dated December 1, 2023.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that on November 29, 2023, this motion was filed through the Court's CM/ECF system, which served it upon all counsel of record.

/s/ Ethan Szumanski
ETHAN SZUMANSKI

CERTIFICATE OF CONFERENCE

I certify that the parties conferred on November 20, 2023 by phone and subsequently by email, and Defendants do not oppose this motion.

/s/ Ethan Szumanski
ETHAN SZUMANSKI